

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED

04/28/2023

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
Roger A.G. Sharpe, Clerk

RAHEEM MC MILLAN,)
Plaintiff,)
)
v.)
)
WILLIAM HARRISON S.P.A et al.)
Defendants)

No. 2:23-cv-00056-JPH-MJD

The Court acknowledges the Request to Withdraw Complaint Without Prejudice, dkt. 15. The Clerk is directed to CLOSE this case on the docket.

JPH, 5/3/2023

Distribution to Plaintiff via U.S. Mail.

REQUEST TO WITHDRAW COMPLAINT WITH OUT PREJUDICE

Come now Plaintiff, RAHEEM MC MILLAN, pro se, and pursuant to Indiana Trial Rule 41(A)(2) requests this court to allow him to withdraw his complaint with out prejudice.

1. This request is made at a time prior to entry of judgment being such the court may grant leave to withdraw the petition;
2. The plaintiff has a conditional right to withdraw a previously filed petition for 42 USC 1983;
3. There is no prejudice to the defendants thus it may be granted by the trial court absent any overriding prejudice which may result to the state by allowing the Plaintiff to withdraw his Complaint;
4. In *Levin & Sons, Inc. v. Mathys*, 409 N.E.2d 1195 (Ind. Ct. App. 1980), the Court of Appeals determined that motions under Rule 41(A)(2) should be denied only when the non-moving defendant will suffer "substantial prejudice," and that "where substantial prejudice is lacking the district court should exercise its discretion by granting a motion for voluntary dismissal without prejudice."